

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

---

MARIE DAVIS

Plaintiff,

v.

MAGNA UNIFIED POLICE DEP'T.

Defendant.

**REPORT AND RECOMMENDATION**

Case No. 2:21-cv-00262-JNP-CMR

District Judge Jill N. Parrish  
Magistrate Judge Cecilia M. Romero

---

This matter is referred to the undersigned pursuant to 28 U.S.C. § 636(B)(1)(b) (ECF 9). After careful review of the procedural posture of this matter, and for the reasons outlined below, the undersigned recommends Plaintiff's Complaint be dismissed.

**BACKGROUND**

On April 30, 2021, the court granted Plaintiff permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (Order to Proceed) (ECF 3). The Order to Proceed also required Plaintiff to file an amended complaint that addressed the deficiencies in her filings by May 14, 2021. To date Plaintiff has failed to file an amended complaint or otherwise comply with the Order to Proceed.

On May 18, 2021, the court issued an Order to Show Cause directing Plaintiff to inform the court as to the status of the case and intentions to proceed by June 1, 2021 (ECF 8). Once again, Plaintiff was warned that failure to do so would result in recommendation that the case be dismissed. To date Plaintiff has failed to respond to the Order to Show Cause and the time to do so has expired.

### **DISCUSSION**

Federal Rule of Civil Procedure 41(b) allows involuntary dismissal of an action “[i]f the plaintiff fails to prosecute or to comply with . . . a court order.” Fed. R. Civ. P. 41(b); *see also* DUCivR 41-2 (allowing dismissal for failure to prosecute). This court may dismiss actions *sua sponte* for failure to prosecute. *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003) (“Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts to dismiss actions *sua sponte* for a plaintiff’s failure to prosecute or comply with . . . court orders.”).

Plaintiff has failed to comply with the court’s previous orders and has failed to prosecute this action. Accordingly, the undersigned recommends this case be dismissed pursuant to Rule 41(b).

### **RECOMMENDATION**

Based on Plaintiff’s failure to prosecute this case, the court **RECOMMENDS** the District Court **DISMISS** this case without prejudice.

Copies of the foregoing Report and Recommendation are being sent to all parties who are hereby notified of their right to object. Within **fourteen (14) days** of being served with a copy, any party may serve and file written objections. *See* [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object may constitute a waiver of objections upon subsequent review.

DATED this 11 June 2021.



Magistrate Judge Cecilia M. Romero  
United States District Court for the District of Utah